

March 8, 2002

Federal Trade Commission  
Telemarketing Rulemaking Comment  
FTC File Number R411001

Dear Sir/Madam,

I offer the following as comment regarding proposed changes in regulations governing telemarketing activity.

First, many thanks for your efforts regarding this modern problem, as telemarketing indeed constitutes a problem. While there are a myriad of issues wrapped up in the current telemarketing environment, the purpose of this communication is to bring to your attention two particular byproducts of the telemarketing industry that I find particularly annoying. Both of these matters directly involve the manner in which telemarketing personnel actually place calls. Specifically, I refer to autodialers and the present inability to trace calls emanating from autodialing activity.

Regarding autodialers, it is common practice in the telemarketing industry for this equipment to dial a number of households well in excess of the number of telemarketing personnel on-hand to actually field phone calls.

I have on many occasions dropped what I was doing in order to answer the phone only to hear an annoying 'click-click,' followed by several seconds of silence, after which the line goes dead. These autodialed calls seem to have an uncanny penchant at coming at the time I am expecting a 'real' phone call – from my wife, who on occasion works late hours, other family, friends, etc. Far too often these calls have come when I am bathing or reading bedtime stories to my young son, and am expecting a phone call from my wife, parents or in-laws, only to hear the 'click-click' of an autodialed call. I have not logged or otherwise quantified this activity; on an anecdotal note, if I had a dollar for every autodialed call I received over the past six months for which there was no one on the line when I answered the phone I could easily cover the next 'special fine restaurant night' tab after taking my wife out for a birthday or anniversary. Nor am I alone here – my parents, who are getting up in years, now use the answering machine to screen evening calls due to the excessive volume of 'dropped' autodialed calls.

The second issue, which actually dovetails with the situation discussed above, is the inability to trace or otherwise identify these calls. On numerous occasions I have '\*69ed' a dropped call; without exception I receive an automated reply that the number is 'not known.' Inquiry on my part disclosed that telemarketing concerns deliberately block common caller ID features such as \*69. The ability of consumers to obtain these numbers to forward to the FCC, FTC or similar regulatory body would provide a useful tool in controlling presently out-of-control autodialing activity. (Which is more than likely the reason the industry prevents tracing.)

I am in general not a big component of governmental regulatory activity regarding the private sector, as, in many (if not most) cases, ethical business concerns, or at least those that place a premium on a savory business reputation, will regulate themselves in a generally efficient manner, if only out of concern for consumer and marketplace acceptance. In far too many instances telemarketing firms not only function in (to put it lightly,) an environment of dubious ethicality, but show no concern whatsoever regarding public perception. (The latter comment is not merely anecdotal. I recently earned the Certified Fraud Examiner – CFE - designation. The review materials I utilized to study for the mandatory exam all Certified Fraud Examiner candidates are required to pass included approximately 200 pages of material discussing illegal/unethical/fraudulent activity on the part of the telemarketing industry.)

One solution to the 'dropped call' problem would be to ban the use of autodialing technology or mandate that, without exception, the number of calls generated by autodialing equipment not exceed the number of individuals available to field said calls. Another approach is to seek 'voluntary' action by the industry, with the understanding that vast improvement in this area must be seen in order to avoid outright banning the use of autodialers. The industry will complain vociferously; however, they are not the ones who put up with this annoyance week after week.

Regarding the inability to trace and/or identify the source of dropped autodialer calls, I respectfully request/recommend an absolute, no exceptions granted, prohibition on shielding ANY telemarketing call, manually or autodialed, from \*69 or other similar technology.

I can be reached during the day at [redacted] or at [redacted] PA .

Thanks in advance to your attention to this communication.

Best Regards,

Robert E. Smith, CIA, CMA, CFM, CFE

PS – Since the public announcement of the FTC's proposed actions regarding the telemarketing industry I have noticed a significant reduction in the number of autodialed calls to my residence. Could this be a coincidence? I think not. As the old saying goes, while I was born on Saturday night, it was not LAST Saturday night.